

Wednesday, November 12, 2008

The Board met at its offices at 450 N Street, Sacramento, at 11:12 a.m., with Dr. Chu, Chair, Ms. Yee, Vice Chairwoman, Mr. Leonard and Ms. Steel present, Ms. Mandel present on behalf of Mr. Chiang in accordance with Government Code section 7.9.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Granite Rock Company, 420038

Bruce W. Woolpert and Rose Ann Woolpert, 420171

Bruce G. Woolpert and Mary E. Woolpert, 420181

Stephen G. Woolpert and Elizabeth M. Woolpert, 420221

Arthur Woolpert, 420187

Marianne Woolpert, 420219

Joseph Woolpert, 420222

Melissa E. Woolpert, 420223

1995, \$72,173.00 Claim for Refund

For Appellant:

Bruce W. Woolpert, Taxpayer

Gilbert Arredondo, Representative

For Franchise Tax Board:

Dan Biedler, Tax Counsel

Bruce Langston, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Board has jurisdiction to review respondent's determination that appellant's third amended return was a timely claim for refund.

If the Board has jurisdiction under the first question, whether any of appellant's claims for refund represent costs incurred before the January 1, 1994, effective date of the Manufacturing Investment Credit.

If the Board has jurisdiction under the first question, and for costs incurred on or after January 1, 1994, whether appellant used an "overburden conveyor system" in a manner making it eligible for the Manufacturing Investment Credit.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 11.1)

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board submitted the appeal for decision.

Exhibits to these minutes are incorporated by reference.

Karie E. Gibson, 337063

1991, \$1,523.91 Interest, \$1,560.87 Amnesty Interest Penalty

For Appellant:

Jonathan Lee, Representative

For Franchise Tax Board:

Suzanne Small, Tax Counsel

Jozel Brunett, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether respondent properly determined not to abate interest for 1991.

Whether this Board has jurisdiction over the unpaid 50 Percent Interest Based Amnesty Penalty imposed for 1991; and if so, whether respondent properly calculated the penalty.

Note: These minutes are not final until Board approved.

Wednesday, November 12, 2008

Action: Upon motion of Mr. Leonard, seconded by Ms. Steel and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel voting yes, the Board adopted a decision sustaining the action of the Franchise Tax Board, which included concessions by the Franchise Tax Board of additional interest for the period April 19, 2004 to October 5, 2005.

The Board recessed at 12:07 p.m. and reconvened at 1:30 p.m. with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel present.

Dr. Chu announced that *SureWest Telephone* (294), 457483; and, *Cheryl Gonzales*, 424159; would be heard on November 13, 2008.

SPECIAL PRESENTATION

On behalf of the Board, Dr. Chu presented Tim Ford, Business Taxes Compliance Supervisor, Compliance Unit, Motor Carrier Section, Fuel Tax Division, Property and Special Taxes Department, with the Charles M. Mills Award of Excellence established by the International Fuel Tax Agreement Law Enforcement Committee. Dr. Chu and the Members of the Board extended their appreciation to Mr. Ford for his dedicated service to the State Board of Equalization and the State of California, their congratulations to Mr. Ford on his well earned award and best wishes to him for continued success in the years to come.

PROPERTY TAXES HEARINGS

Golden State Water Company (101), 457748

2008, \$504,700,000.00 Unitary Value

For Petitioner:

Peter Hladek, Representative

Andrew Davis, Representative

Matthew Rakela, Representative

For Property and Special Taxes Department: Carole Ruwart, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether petitioner has shown that respondent improperly used petitioner's book depreciation to calculate the capital replacement allowance when calculating the Capitalized Earning Ability value indicator.

Whether petitioner has presented evidence sufficient to meet its burden of proof to show that the 2008 Board-adopted unitary value should be reduced to the revised opinion of value determined in the appraisal presented at the appeals conference.

Petitioner's Exhibit: Miscellaneous Documents (Exhibit 11.2)

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Steel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board ordered that the petition be submitted for decision.

Wednesday, November 12, 2008

AT&T Mobility, LLC (2606), 451532
 2008, \$1,822,000,000.00 Unitary Value
 For Petitioner:

Pam Willmoth, Taxpayer
 Eric Miethke, Attorney
 Carl Hoemke, Representative

For Property and Special Taxes Department:

Bradley Heller, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the 2008 Board-adopted unitary value overstates the Replacement Cost

New factor of petitioner's unitary property.

Whether petitioner has shown that its 2008 Board-adopted unitary value should be adjusted to account for additional depreciation.

Whether petitioner has shown that its 2008 Board-adopted unitary value should be reduced for site acquisition costs of leasehold interests on private land that have already been assessed by the county.

Petitioner's Exhibit: Miscellaneous Documents (Exhibit 11.3)

Action: Upon motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Dr. Chu, Ms. Yee, Mr. Leonard and Ms. Steel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board ordered that the petition be submitted for decision at the December 2008 Board Meeting and that a new hearing summary be prepared by the Appeals Division incorporating the new information discussed during this hearing. Additionally the Board Members will be briefed and provided confidential information by the State-Assessed Properties Division to better understand how the department came to its determination of the value assessed.

The Board recessed at 4:02 p.m. and reconvened at 4:08 p.m. with Dr. Chu, Ms. Yee, Mr. Leonard, Ms. Steel and Ms. Mandel present.

Dr. Chu announced that the Tax Program Non-Appearance Matters would be heard on November 13, 2008.

Speakers: Rex Halverson, Principal, Tassa Consulting, Representing *Princess House, Inc.*, 380967 (OH)
 Scot Grierson, Principal, Grant Thornton LLP, Representing *Princess House, Inc.*, 380967 (OH)
 Michael R. Carchedi, Controller, *Princess House, Inc.*, 380967 (OH)

PROPERTY TAXES HEARING

Pacific Bell Telephone Company (279), 451533
 2008, \$7,436,700,000.00 Unitary Value
 For Petitioner:

Robert Strong, Taxpayer
 Eric Miethke, Attorney
 Carl Hoemke, Representative

For Property and Special Taxes Department:

Bradley Heller, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Note: These minutes are not final until Board approved.

Wednesday, November 12, 2008

Issues: Whether the 2008 Board-adopted unitary value and petitioner's revised opinion of value on appeal are entitled to a presumption of correctness.

Whether the 2008 Board-adopted unitary value overstates the Replacement Cost New of petitioner's telephone poles.

Whether the 2008 Board-adopted unitary value understates the removal costs of petitioner's telephone poles.

Whether respondent State-Assessed Properties Division improperly rejected petitioner's percent good factors for telephone poles.

Whether respondent improperly rejected petitioner's percent good factors for underground metallic cables.

Whether respondent improperly rejected petitioner's percent good factors for petitioner's conduit.

Whether petitioner has shown that the 2008 Board-adopted unitary value fails to account for all functional and economic obsolescence due to loss of wire access lines and wire access line customers.

Whether petitioner has shown the 2008 Board-adopted unitary value fails to account for all obsolescence due to excess operating costs.

Whether petitioner has shown that an adjustment to the 2008 Board-adopted unitary value for obsolescence is necessary due to petitioner's status as a provider of last resort.

Whether respondent has correctly determined that petitioner made an improper adjustment for depreciation to the Replacement Cost New of petitioner's construction work in progress costs.

Petitioner's Exhibit: Miscellaneous Documents (Exhibit 11.4)

Action: The Board ordered that the petition be submitted for decision at the December 2008 Board Meeting.

The Board adjourned at 6:57 p.m.

The foregoing minutes are adopted by the Board on January 22, 2008.

Note: The following matters were removed from the calendar prior to the meeting: *John Schultz, 421122*; and *Chuck Johnson, 424332*.